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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/779,447	02/12/2004	Michael James Weiland	93214.038	8981

7590 04/21/2005  
Paul F. Wille  
6407 E. Clinton St.  
Scottsdale, AZ 85254

EXAMINER

BLANKENSHIP, GREGORY A

ART UNIT	PAPER NUMBER
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3612

DATE MAILED: 04/21/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/779,447

Applicant(s)

WEILAND, MICHAEL JAMES

Examiner

Greg Blankenship

Art Unit

3612

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 14 February 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,2,7 and 10 is/are rejected.
- 7) ☒ Claim(s) 3-6 and 9 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 12 February 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### *Claim Rejections - 35 USC § 102*

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1 and 2 are rejected under 35 U.S.C. 102(b) as being anticipated by Ressler (5,137,413).

Ressler discloses a mini-van (10) having a rear opening (28), a rear door (29) that closes off the rear opening (28), an extendible ramp (44), and a bumper. The bumper (30) is divided into three sections. A central section is attached to a side of the ramp (44). The ramp, including the central section, is pivotally attached to the vehicle body and indirectly to the outer bumper sections. The ramp (44) closes off the drop floor.

3. Claims 7 and 10 are rejected under 35 U.S.C. 102(b) as being anticipated by Deacon (Re. 31,178).

Deacon discloses a van (11) having a rear opening, a rear door that closes off the rear opening, an extendible ramp (15), and a gate. One of the structures (13) is the gate, while the other one (13) is the rear door. The gate pivots about a substantially vertical axis to provide access to the rear opening. A latch, shown in Figure 1, attaches the door to the gate.

### *Allowable Subject Matter*

4. Claims 3-6, 8 and 9 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

### *Response to Arguments*

5. Applicant's arguments filed 2/14/2005 have been fully considered but they are not persuasive. The applicant has argued that Ressler's central section does not swing like a gate. The examiner disagrees with this argument. The phrase "swings like a gate" is broad and can be interpreted in different ways. Gates, more commonly called tailgates when coupled to a vehicle, are known to swing or pivot in many ways. Some tailgates pivot about a generally vertical axis. Other tailgates pivot about a generally horizontal axis. Some tailgates are even capable of pivoting about both axes. The central section of Ressler pivots about a horizontal axis and thus meets the limitation "swings like a gate".

6. The applicant has argued that the rear door of Deacon does not completely close the rear opening. The door is not claimed to completely close the rear opening of the applicant's invention. The examiner would like to point out that the applicant's invention requires both the claimed door and the claimed gate to completely close the rear opening. The applicant's door only closes the opening bounded by the sidewalls, roof, bumper ends, and the gate. The door of Deacon completely closes the opening bounded by the sidewalls, roof, bumper ends, and the gate. Therefore, a single element (13), of Deacon, anticipates the claim limitation. The applicant has also argued that the examiner is misusing terminology when calling element (13) of Deacon a "gate". The examiner disagrees with this since the rear doors of vehicles, like the one shown in Deacon's patent, are commonly called "tailgates". This is merely applying multiple appropriate terms used in the art to describe elements (13).

### *Conclusion*

7. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

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A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Greg Blankenship whose telephone number is 571-272-6656.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

**Any response to this action should be mailed to:**

Assistant Commissioner for Patents

Washington, D.C. 20231

**Or faxed to:**

(703) 872-9306, (for formal communications intended for entry)

**or:**

(571) 273-6656, (for informal or draft communications, please clearly label "FOR DISCUSSION PURPOSES ONLY", "PROPOSED" or "DRAFT")

D. GLENN DAYOAN  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 3600

4/18/05